
Finance Committee

SB 5814

Brief Description: Authorizing the governor to enter into cigarette tax contracts with additional tribes.

Sponsors: Senators Prentice, Swecker, Rasmussen and Kohl-Welles; by request of Department of Revenue.

Companion Bill: HB 1915

Brief Summary of Bill

- Adds the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe to the list of tribes with which the Governor may make cigarette tax contracts.

Hearing Date: 3/22/05

Staff: Bob Longman (786-7139).

Background:

The state imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes. Cigarette taxes are added directly to the price of the cigarettes. The rate for the cigarette tax is 142.5 cents per pack of twenty cigarettes which is equal to \$14.25 per carton. Revenue from the first 23 cents of the cigarette tax goes to the State General Fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the State General Fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement. Retail sales and use taxes are also imposed on sales of cigarettes. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.9 percent, depending on the location. State and local sales and use taxes on an average carton of cigarettes are about \$3.00.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the tax. Enforcement of state cigarette taxes with respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In 2001, the Legislature authorized the Governor to enter into contracts regarding the taxation of the sale of cigarettes sold on Indian lands. Under a cigarette tax contract, the sales must be subject to a tribal cigarette tax equal to 100 percent of the state cigarette and state and local sales and use taxes and are exempt from these state and local taxes. The rate may be phased in over three years but can be no lower than 80 percent of the state cigarette and sales tax rate. Revenues from the tribal tax must be used for essential government services. The contracts must require the use of cigarette stamps and include other provisions for tax enforcement and administration. The contracts must be for renewable periods of no more than eight years.

The Governor was originally authorized to enter into agreements with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe. Authority was subsequently granted to enter into agreements with the Yakama Nation, the Suquamish Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Quileute Tribe, the Samish Indian Nation, and the Kalispel Tribe.

The Governor has the authority to contract with twenty-one tribes and has contracted with eighteen tribes to date.

Summary of Bill:

The Governor is authorized to enter into cigarette tax contracts with the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe, under the same terms as existing contracts with other tribes.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.